

Appl. No. 09/736,345
Amdt. Dated Jan 30, 2006
Reply to Office Action of Nov. 29, 2005

REMARKS

Claims 12-55 are pending. Applicant thanks the Office for entering Amendment E and for the continued thorough examination. Claims 34, 41, 47, 49, and 51, are amended herein for consistency of the language of similar claims and not for any form of limitations that would be deemed to constitute new matter. However, if the Office still considers any change to constitute new matter, Applicant respectfully requests that the Office perform an examiner's amendment to alter the claims back to their original form as Applicant would prefer to have some minor inconsistent language than have these changes be construed as new matter.

The proffered arguments are intended to assist the Office in understanding the unique aspects of the present invention, and place the case in condition for allowance. Alternatively, if the Office maintains its rejection, Amendment F and supporting arguments presents the rejected claims in better form for consideration on Appeal. Therefore, it is appropriate that the Examiner enter Amendment F into this application at this time. Rule 116(a); MPEP 714.12, 714.13. Reconsideration of this application and allowance of all pending claims is respectfully requested. No new matter is added.

Declaration

In support thereof, the Applicant/Inventor is submitting a sworn declaration (37 CFR 1.132) to explain certain aspect related to secondary considerations pertaining to the present invention. Such secondary considerations provide probative and cogent evidence that should be considered in evaluating obviousness and offer further details which are better explained in the attached Declaration.

Interview Summary

The Applicant wishes to thank Examiner Kramer for the telephone interview conducted on Jan. 26, 2006. Despite his busy schedule, Examiner Kramer took the time to discuss the present invention and participate in a software demonstration that showed some

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of the functionality of the present invention. The demonstration and discussions were helpful for the understanding by the Office of the present invention. Examiner Kramer commented that following the Interview he had a better appreciation of the invention and understood the distinction between the present invention and the cited Peachtree reference. Although there was no resolution, the Office now understands the features of the present invention and Applicant believes that reconsideration of Amendment E in light of this understanding should result in allowance.

Furthermore, Applicant is ready and available via telephone or email with any questions that may arise. Such communications are welcomed by the Applicant and will facilitate the processing of the present application.

Claims Rejections - 35 USC §112 Second Paragraph

The Office rejected Claims 12 – 47 and 52 - 55 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. A §112 second paragraph rejection has two separate requirements, indefiniteness and failing to claim what applicant regards as the invention. With respect to indefiniteness, the "essential inquiry pertaining to this requirement is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity. Definiteness of claim language must be analyzed, not in a vacuum, but in light of (1) the content of the particular disclosure, (2) the teachings of the prior art, and (3) the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made." (MPEP §2173.02).

A rejection stating that the claims fail to set forth the subject matter that the Applicant regards as the invention is only appropriate where the Applicant has stated that the invention is something different from what is defined by the claims (MPEP §2172(a)). And, there is a presumption that the claims describe the applicant's invention, absent evidence to the contrary.

The Office states that the amendments presented in the Office Action filed Sept. 2,

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2005 includes steps that render the claim indefinite. "Specifically, it is unclear how the system computes account balances from one or more transactions when the system only receives accounting data that includes accounts, amounts and a direction. Where does the data come from for this second step?"

The Office thus highlights one of the unique properties of the present invention - processing raw data such as accounts with amount and direction, and building financial statements - without a pre-defined Chart of Accounts or the elements required for such a Chart of Accounts such as account sequence.

All the prior references cited by the Office, including the Peachtree reference, process with a pre-defined Chart of Accounts that employs a rigid structure. In fact, the Office acknowledges this and states that "Examiner asserts that Peachtree receives this accounting data and groups it based on the chart of accounts." (Office Action dated 11/29/05, page 4, 2nd par) This pre-defined Chart of Accounts requires established parameters such as account sequence in order to operate, and this comports with the instructions in the Peachtree manual provided by the Office as a prior reference.

And, as noted in Peachtree B1-B3, the structure of Peachtree is based upon the setup of the Chart of Accounts which includes account number, account sequence, description, type, category, Group End value, and Balance column (see Peachtree 4-8). As already noted by the Office, the Chart of Accounts is the master list of all Accounts by which Peachtree operates.

On Page 20 of Applicant's Amendment E, it was previously explained that Peachtree requires established parameters, such as an account number sequence, of a pre-defined chart of accounts in order to function. Any data that is imported within Peachtree requires the structure according to the established Chart of Accounts in order to be processed. Typically, the user builds the Chart of Accounts and creates the structure (see Peachtree Chapter 3, Chapter 4 and the Setup Forms A1-A5). Thus, Applicant maintains and has explicitly noted that "[i]t is NOT possible for Peachtree to receive an electronic file of accounting data having

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only an account and amount as Peachtree would not be able to process this information. The present invention does not require a pre-defined chart of accounts."

Furthermore, the Applicant explicitly stated in the prior Amendment E that the grouping of the present invention was done "regardless of an account sequence" and therefore did not require a pre-defined Chart of Accounts. It was explained that the account sequence was a required element for the Chart of Accounts as explained in the Peachtree reference. It was previously explained in the prior response (Amendment E) that the only manner in which Peachtree can produce a simulated financial statement is by sequentially stepping through the account numbers of the chart of accounts (see Peachtree B1) wherein certain ranges of accounts are totaled and sub-totaled. It is an absolute necessity that the sequential ordering is followed. Peachtree simulates a financial statement by following an account sequence and 'printing' a financial statement according to the account sequence.

To summarize, the process performed by Peachtree for financial statements is only the printing of a trial balance (list of accounts with respective balance), this sequential trial balance being split into two sequential reports; a 'balance sheet' report and an 'income statement' report.

Applicant understands that the Office may be perplexed as to the operation of the present system and the computation of account balances from one or more transactions when the system only receives accounting data that includes accounts, amounts and a direction. According to the state of the art – no other system prior to the present invention can process the data without having an established Chart of Accounts utilizing an account sequence, and further build financial statements from such raw data. However, the claims are supported by the specification and the various responses have continued to explain the operation of the present invention.

Per the telephone interview with the Examiner and a corresponding interactive demonstration, the Examiner was able to appreciate the capacity of the invention to read accounting data from transactions reports printed on a disk, the unique and universal method

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to build financial statements from this accounting data, and the display of details from the consultation of the financial statement. Due to the optimal data structures and algorithms of the present invention, the Financial Statement module can read, organize and manipulate the accounting data of any accounting software as it processes the accounting data without the strict policies of Peachtree such as the account sequence.

As noted in the demonstration, all the transactions' lines in the transactions report printed in the ASCII file (JG.DOC) have an amount (Debit or Credit), that was read and transferred into the data structures of Figure 22 of the present invention. The Financial Statement Module also initializes the data structure of Figure 5a according to the identification of each data field.

A Trial Balance resulting from the reading and identifying process was displayed during the demonstration. Kindly note that the accounts are in the order of their first appearance in the accounting data received, regardless of the account number sequence found in a pre-determined Chart of Accounts. In other words, present invention does not care about the sequence of the account numbers of the input accounting data.

As visually demonstrated to the Examiner during the Interview, four balances appeared on the financial statement. The first three were financial statement item balances (balances of a group of accounts), and the last one was a total balance (balance of a group of financial statement items). These balances were computed from the transactions of the ASCII file JG.DOC.

Once the financial statement was built, the financial statement editor allowed further details for a balance appearing on the financial statements, namely: a) details for a financial statement item; b) details for an account balance; and c) details of a transaction. Depending on the source of the accounting data, the financial statement module can display the details up to the original transaction. The details were directly accessible from the financial statement report displayed on the screen.

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As explained, the Financial Statement Module enables the provisioning of such various detailed levels, right from the display, starting with financial statement items detail (first level), to a user selected account within a financial statement item (second level), to a user selected transaction line within that account (third level). The first level of detail can include any accounts and respective account balances grouped into the financial statement item, the second level of detail can include an account balance and transactions associated with the account balance, and the third level of detail can include at least one debited account and a corresponding credited account associated with the selected transaction.

The Office should now understand how the present system allows the reading of accounting data such as accounting transactions listed in transactions reports and saved electronically. As described in one embodiment, the accounting data is stored using the 'print' command to save an ACSII file by any accounting software. Furthermore, the Office should also comprehend how to create financial statements with the Financial Statement Module, due to the unique and universal method to build financial statements.

Once again, the Financial Statement Module of the present invention is not a bookkeeping system, wherein bookkeeping refers to the creation and maintenance of a chart of accounts followed by the recording of transactions and the printing of a trial balance. The present invention is a universal system for building financial statements. It is important that the Office understand the distinction between bookkeeping functions and the building of financial statements. These are two very different functions and the prior Responses clearly explain the definitions and the distinctions.

The Office has rejected the present claims for indefiniteness – however, it is not the claims that are indefinite, rather, prior to the Interview on Jan. 26, 2006 and software demonstration of the invention, it was the understanding of the invention by the Office that was indefinite. In making its further rejections in the final Office Action, the Office makes inaccurate assumptions that the present invention “groups the accounting data by combining it with the Chart of Accounts and thus “computes the account” balance as required by the

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claims.” As explained in the prior Response (Amendment E), the processing of the present invention enables building of a financial statement without an account sequence – which traverses the Peachtree rejection.

It should be noted that the Office’s focus during examination for compliance the requirement for definiteness of 112 (second paragraph) is whether the claim meets the threshold requirements of clarity and precision, not whether more suitable language or modes of expression are available. The essential inquiry pertaining to a rejection under 112 (second paragraph) is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity. MPEP 2173.02. This is an objective standard because it is not dependent on the views of applicant or any particular individual, but is evaluated in the context of whether the claim is definite – i.e., whether the scope of the claim is clear to a hypothetical person possessing the ordinary level of skill in the pertinent part. MPEP 2171. In other words, 112 (second paragraph) generally requires that the “claims, read in light of the specifications, reasonably apprise those skilled in the art.

As noted on page 4 of the Office Action, the Office indicates that the Applicant recited a “limited number of specific claimed limitations that are missing from Peachtree.” Applicant wishes to point out that this is the basis for allowance, not rejection. Establishing claimed limitations not in the cited references and not otherwise obvious from such references should result in an allowance of the claims.

The Office also alleges that the Applicant is “attempting to read these features and capabilities from the Specification into the claims.” The Applicant contends that the previously presented claims clearly indicate the patentable subject matter of the present invention. The claims are read in light of the specification and that the explanations in the Office Action Response clarify those distinctions.

For purposes of illustration, in order to further illustrate the claimed invention, a section of Claim 12 is presented herein with further explanations to again highlight the claimed elements and patentable subject matter. To one skilled in the art, such explanations

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are fully supported by the original specification.

Claim 12. A computer implemented method for building financial statements, the method comprising:

receiving an electronic file of accounting data having a plurality of accounts, wherein each account has a corresponding amount and an accounting direction for said amount;

computing an account balance resulting from one or more transactions, and each transaction is associated with more than one account and combines at least one debit and at least one credit;

grouping the accounts into one or more financial statement items, wherein each account is associated with only one financial statement item within any one financial statement and wherein said grouping is regardless of an account sequence;

Per the question raised by the Office, namely, "[w]here does the data come from for this second step?", the Applicant asserts that as demonstrated, the present system can build financial statements in which it only receives accounting data that includes accounts, amounts and a direction as noted in Claim 12, and which raw data is comprised in any trial balance and transaction report.

Furthermore, as demonstrated by the demonstration, the accounting data received, (such as raw data found in a transactions report) explicitly defines that there is no pre-defined Chart of Accounts. And following the demonstration, it should now be clear "how the system computes account balances from one or more transactions when the system only receives accounting data that includes accounts, amounts and a direction."

In one embodiment, the incoming accounting data is only transactions (having a plurality of accounts, wherein each account has a corresponding amount and an accounting direction). In the demonstration, this is the only data provided (input data) to the present invention which was used to build the financial statement. As noted in the claims, the present invention builds financial statements from the received accounting data. Cited

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references cannot fill the structure of a Chart of Accounts nor build a financial statement with this amount/type of data.

The Office alleges that the "Applicant also has a 'chart of accounts' used by the present invention to group and organize the incoming accounting data." Again, the Office is incorrect in this assertion. Applicant directs the Office's attention to the section cited by the Office in the Applicants Specification on page 10, and referring to the corresponding Figure 5 that shows the organization of the incoming accounting data in the central memory. This section on page 10 of the specification reads as follows:

When looking at the organization of the data of the chart of accounts, two items are particularly important: the vector LINK 506 and the field LINKTRANS 507 of the chart structure, corresponding to the sequence number of the creation of the account and which links the transactions to the accounts of the chart. It is also used to save the data of the financial statements 1201 in the files. Each time an account is created, a new element in the chart structure 508 is created. A new element in the list of pointers 509 is also created and inserted in the list. The insertion algorithm used enables the insertion in an empty list, the insertion as the first item of a list, the insertion at the end of a list, and the insertion in the list. The insertion is done before the current pointer and the algorithm uses a previous pointer (the current pointer) for its operation.

The specification description noted above is not related to the input processing of data using a pre-defined Chart of Accounts as described in the cited references. Rather, it describes the dynamic creation of Figure 5a from the received accounting data and it is clearly evident from claims 20 and 25 with "storing the accounts of the accounting data" wherein the accounting data is only transactions.

Contrary to the cited references, which receives detailed accounting data and groups it based on the Chart of Accounts, the Financial Statement Module of the present invention - without any pre-defined chart of accounts provided by the user - initializes the data structure of Figure 5a using only the raw data elements - which includes accounts, amounts and a direction provided by the accounting data (Trial balance data and/or transactions, as expressed in claim 20) and builds financial statements as claimed in claim 12.

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Thus, the present system is able to process and build financial statements from accounting data having a plurality of accounts, wherein each account has a corresponding amount and an accounting direction. This is unique to the present invention due to the flexibility provided by the conceived data structures and the dynamic grouping and allocation of individual elements which make it universal. In distinction to Peachtree, the present invention can process any type of transactions report, wherein there is at least an account identification with a corresponding amount and an accounting direction for the amount. The present invention processes the accounting data and 'groups' accounts into financial statement items, regardless of an account sequence and it is NOT 'based on the Chart of Accounts'

As detailed in the present application, the accounting data is used to build the financial statements and compute the financial statement items balance (see claim 12). It should also be understood that in another embodiment of the present invention, the electronic file of accounting data might not be transactions, but rather be a trial balance report (having a plurality of accounts, wherein each account has a corresponding amount and an accounting direction). As claimed in Claim 20, the accounting data can be obtained from reading trial balance data (accounts and respective balance) stored on a computer readable medium and/or reading transactions such as Peachtree table 2-18 stored on a computer readable medium. With either reading trial balance data and/or reading transactions, the present invention can build financial statements and display details. Only the present invention can do this processing with such raw data as account id, amount, and direction coming from trial balance reports and/or transactions reports.

Claim 12. A computer implemented method for building financial statements, the method comprising:

...
computing a financial statement item balance for each financial statement item based on the associated accounts and their respective account balances;
grouping the financial statement items into one or more totals, wherein each total is based on preceding financial statement item balances; and

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providing a financial statement that includes each financial statement item and its respective balance.

In the Office Action, the Office states that "Applicant asserts on page 24 that Examiners position that 'the roll up of Accounts 54000 and 64000 as 'Expense' represents grouping the two accounts into financial statement items' is wrong because Expense is a 'category of items'. It appears from this argument that Applicant is making up definitions to suit the particular position. Applicant defines a financial statement item as a 'group of accounts'. Therefore, based on this definition, if 54000 and 64000 roll up into the 'Expense' item, then Expense must be a financial statement item. Applicant continues this line of argument through page 26 including assertion that 'Income, Cost of Goods, Expenses, Other Income and Other Expenses noted in B-6, (and) B-7 are also not Financial Statement items as they have no respective balances.' Once again Examiner relies on Applicant's own definition (a group of accounts). First this does not require a balance to meet this definition. Secondly, they do have balances as presented on the Financial Statements."

A proper understanding of the invention requires some knowledge of the accounting terminology. Applicant uses certain terms to identify the various elements and would like to ensure that the proper accounting definitions, as known by those skilled in the art, are employed. The Applicant has provided the established definitions used by those in the accounting field and recited in the prior Office Action Response (Amendment E). Further support is noted herein to clearly rebut the allegation by the Office that the Applicant is "making up definitions."

For example, as noted in the reference used by the Office, Sampson (U.S. Pat. No 5,390,113) specifically states that "[t]he predetermined chart of accounts must have at least one number.... Account numbers may include an indicator of criteria associated with the particular definition of the predetermined chart of accounts.... Entries in the journal must be composed of accounts included in the chart." (Sampson - Col 4, lines 12-13; Col 4, lines 34-36; Col 2 lines 10-11)

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Not only does Sampson employ the same definitions as the present invention, but it acknowledges the notion of the predetermined chart of accounts having the account numbers with predefined attributes such as the account number ranges used in Peachtree to classify the accounts according to a fixed classification.

Applicant refers the Office to the attached Exhibit A providing authoritative definitions to support the usage by the Applicant and those skilled in the art. These accounting definitions obtained from the Internet and shown in Exhibit A, clearly support the definitions used by the Applicant. In more particular detail, a Chart of Accounts is a "list of account titles you use to keep your accounting records." This refers to the function of the Chart of Accounts to record transactions. And, it is limited to a listing of posting accounts. This is the industry standard definition and is not to be construed to include other types of accounts such as done by Peachtree to print the simulation of financial statements by sequentially printing its pre-defined chart of accounts instead of building financial statements.

The Applicant respectfully requests that the Office use the standard and customary definition of Chart of Accounts to denote a systematic listing of accounts and not the derivation of a definition such as from the tortured use by Peachtree to accomplish the printing of simulated financial statement reports or a definition non-compliant with the accounting field.

It should also be readily understood that financial statement items have respective balances. As previously defined, a financial statement item is a group of accounts that determine the net balance of the Financial Statement Item. As described in the present application, there is a 'distinction between two types of balances (financial statement items and totals) appearing on a financial statement.

Also from claim 12, computing a financial statement item balance for each financial statement item and providing a financial statement that includes each financial statement item

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and its respective balance clearly expresses this definition.

In order for the Office to gain a better understanding of the defined items, the Applicant would like the Office to consider the attached Exhibit B from the Canadian Institute of Chartered Accountants Manual (CICA) and the Financial Accounting Standards Board Statements (FASB). These attachments define the most common categories of items, including Assets, Liabilities, Equity/Net assets, Revenues, Expenses, Gains, and Losses. Applicant also refers the Office to page 3-21 of Peachtree (cited reference) wherein six categories are identified: Assets, Liability & Equity, Income, Expenses, Other Income, Other Expenses.

As noted in the attached Exhibit B, the elements of a financial statement are clearly and unequivocally set forth as used by the Applicant. "*Elements of financial statements refer to broad classes such as assets, liabilities, revenues, and expenses. Particular economic things and events such as cash ... that may meet the definition of elements are not elements as the term is used in this Statement. Rather, they are called items ...*" (FASB Statement of Financial Accounting Concepts No. 6, page 11)

Contrary to the Office's assertion that the category of items 'INCOME' 'COST OF GOODS SOLD' 'EXPENSES' "...do have balances as presented on the Financial Statements", in the financial reports on page B-6 and B-7 in Peachtree, they have no respective balance. This is clearly illustrated and Applicant requests that the Office reconsider this position.

Thus, Applicant contends that the terminology and definitions used in the application, and as already explained in the responses, represent the industry defined customary terms and that the usage by the Office contrary to these standards is not proper. Applicant kindly requests that the Office adopts the definitions and usage by those skilled in the art and supported by the specification as further illustrated by the Exhibits.

The Office also states on page 5 of the Office Action that "Applicant asserts on page

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26-29 that the sequential ordering of the Chart of Accounts differentiates over Applicant's invention because Applicant's Chart of Accounts is not required to be in this 'fixed sequential order'. Examiner notes that this is merely a design choice for Peachtree. The system of Peachtree would operate the same way if the Chart of Accounts were in any order, as the system matches the account number in the journal entry with the account number on the Chart of Accounts. As such it is the position of the Examiner that the Chart of Account of Peachtree is not required to be in a fixed and sequential order to operate as taught by the prior art."

Once again, Applicant respectfully disagrees. To print its two financial reports, Peachtree operates according to the account sequence and does not permit 'ranges' that are out of sequence. As detailed herein and in the prior Response (Amendment E), Peachtree sequentially follows the account sequence in the Chart of Accounts (see Peachtree B1-B3) and prints out a trial balance split in the "Balance Sheet" and "Income Statement" Reports. The account sequence is not merely a design choice as asserted by the Office – it is an essential component. Nor would Peachtree be able to 'print' the simulated financial statements reports if the Chart of Accounts were not in sequential order. The Peachtree manual, cited by the Office, is in clear contradiction to the allegations of the Office as already explained in the prior Response.

The Applicant has carefully reviewed Peachtree reference and has found nothing that supports the Office's present position "that the Chart of Accounts of Peachtree is not required to be in a fixed and sequential order to operate as taught by the prior art." A careful review of Peachtree clearly shows that the Chart of Accounts does require the account numbers to have an account sequence therefore a pre-defined Chart of Accounts. Applicant respectfully requests that the Office reconsider this position or substantiate this position by reciting some specific reference in Peachtree that supports the allegations made by the Office.

The Office discusses the bookkeeping process of Peachtree wherein Peachtree matches the account number in the journal entry with the account number on the Chart of

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Accounts. The remarks on page 26-29 of the prior Response (Amendment E) refer to the sequential printing of the Chart of Accounts with respective balances (a trial balance) performed by Peachtree to simulate two financial statement reports. Please note that the present invention refers to a universal method for building financial statements, not a method for bookkeeping, and those referred remarks end on page 29 of Amendment E with the following:

“As described in the present application, there is a ‘distinction between two types of balances (financial statement items and totals) appearing on a financial statement; enabling the user to group the accounts into financial statement items simply and rapidly, by pointing, through the data structures and the display module; enabling the user to group the financial statement items into totals simply and rapidly, by pointing, through the data structures and the display module, ...”

Only the present invention builds financial statements regardless of an account sequence, required parameter for the Chart of Accounts. Peachtree requires a predefined Chart of Accounts in order to function, and must be in a “fixed and sequential order” in order to simulate and print two financial statement reports. For at least these reasons set forth, the rejection is traversed.

With the explanation provided herein, along with the demonstrations and discussions of the telephone interview, the 112 rejection is traversed. And, as the Office has acknowledged that building a financial statement without a pre-defined Chart of Accounts employing account numbers sequence was not heretofore possible, the rejections under 102 and 103 should also be traversed. Now that the Office comprehends the invention, allowance of all claims is expected.

Improper Designation as a Final Action

As a preliminary matter, the Examiner has indicated that this Office Action is final. Applicant respectfully submits that it was improper for the Examiner to make this action final.

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It is well-established that before issuing a final rejection, especially in a case that has already been in prosecution over five years, the Office should carefully consider the prior Response (Amendment E) and make a solid and well-founded decision. As stated in MPEP 706.07:

Before final rejection is in order a clear issue should be developed between the examiner and applicant. ...

While the rules no longer give to an applicant the right to "amend as often as the examiner presents new references or reasons for rejection," present practice does not sanction hasty and ill-considered final rejections. The applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his or her application. ...

The examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal. ...

In the present case, the Office starts the final rejections with a question as to the functionality of the invention with respect to how the present invention processes the accounting data. The Office made an improper conclusion, namely assuming the present invention utilizes a pre-defined Chart of Accounts – and then makes a final rejection by referencing the prior Office Action. This is despite over 20 pages of explanations including multiple examples from the cited Peachtree reference and the Applicants written request to answer to contact the Applicant with questions. In addition, Applicant's Attorney called the Examiner on or about Sept. 19, 2005 and left voice mail specifically offering any assistance by telephone. Applicant contends that the Office did not fulfill its duty in a thorough examination of Office Action Response Amendment E and has drawn a hasty conclusion based on a faulty initial premise, and thereby improperly placed the present application in a final state.

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Applicant respectfully requests that the Office withdraw the finality of the Final Rejection and allow the Applicant to obtain a proper examination on the merits based on the arguments and amendments from Amendment E as well as the present Amendment F. Now that the Office has a better understanding of the invention, Applicant only wishes to have a fair opportunity and avoid further delays of this application which has been in prosecution over 5 years.

According to MPEP § 706.07(a) the second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is not necessitated by an Applicant's amendment of the claims. The "applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his or her application."

In this particular case, the Office Action dated 4/4/2005 discussed the processing of the Peachtree reference within the framework of Peachtree. The Response of Amendment E carefully explained that the rigid structure of Peachtree would not be able to print 'financial statements' unless the account numbers were in an account sequence. And it was explained in detail how the present invention operated without such account sequence and without a pre-defined Chart of Accounts and thereby traversed the rejection. However, the Office jumped to an improper conclusion by stating that the present invention employs a Chart of Accounts and then regurgitating the prior Office Action rejections. Applicant argues that the spirit of MPEP 706.07 has been violated as the Office has maintained a rejection that was not necessitated by the Applicant's amendments. While it may not appear obvious, Applicant considers this to be a new ground of rejection. The present rejection is based upon a hasty unsubstantiated conclusion, namely that it requires a Chart of Accounts. The Office leaped to this conclusion without properly considering the Office Action Response (Amendment E)

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thereby creating a 'new ground of rejection' as that Office Action Response was response to the Office Action.

Now that the Office has a better understanding of the Invention following the telephone interview, Applicant believes that the Office will now see that the prior Office Action Response (Amendment E) clearly traverses the Peachtree reference. Applicant respectfully requests that the Office withdraw the finality of the final Office Action and allow the Applicant to obtain his full and fair hearing on the merits.

Claims Rejections - 35 USC §102(b)

The Office rejected claims 12, 13, 15-17, 20-43 and 48-55 under 35 U.S.C. 102(b) as being anticipated by Peachtree ("Peachtree Using General Ledger", copyright 1989 by Peachtree Software). A rejection based on anticipation requires that a single reference teach every element of the claim (MPEP § 2131). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Or stated in another way, a "claim is anticipated only if each and every element as set forth in the claim is found, . . . described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

As noted in the Office Action, the Office made an assumption that the present invention "groups the data accounting data by combining it with the Chart of Accounts", despite explicit statements to the contrary in the previous Response of Amendment E. As detailed therein, discussed in the telephone interview and further explained herein – there is no pre-defined Chart of Accounts associated with the present invention. Applicant believes that the Peachtree reference is clearly traversed based upon the prior Amendment E Response and that reconsideration is respectfully requested now that the Office has a better understanding of the invention following the telephone interview of Jan. 26, 2006.

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Thus, the Office commenced with a faulty premise, and the rejection for 35 USC 102 merely states "[see] previous Office Action." For convenience, Applicant respectfully requests that the Office refer to the arguments of Amendment E. As detailed therein, the arguments in Amendment E overcome the rejections - reconsideration and allowance of all claims is respectfully requested.

For illustrative purposes of one of the distinctions, Claims 12, 39, 52, 53, and 54 recite "grouping is regardless of an account sequence." As noted, Peachtree operates according to the account sequence and does not permit 'ranges' that are out of sequence. In addition, as detailed herein, Peachtree sequentially follows the account sequence in the Chart of Accounts in Peachtree B1-B3 in the manner in which Peachtree prints out the "Balance Sheet" and "Income Statement" Reports. There is no description in Peachtree for the building of a financial statement involving grouping of accounts regardless of account sequence.

This aspect is detailed in the prior Response (Amendment E) and was shown by the demonstration during the telephone interview. Therefore, for at least this reason, the Office must withdraw the anticipation rejection as it has been clearly described that Peachtree does NOT describe each and every element as set forth in these claims. Applicant respectfully requests reconsideration of claims 12, 39, 52, 53, and 54 and dependent claims therefrom.

With respect to claims 40 and 48 (and dependents therefrom), Applicant requests that the Office review the prior Response (Amendment E). These claims have several aspects that are not described in Peachtree and therefore the anticipation rejection cannot be upheld. For example, these claims refer to dynamically allocating memory space that refers to the process of allocating a memory space for each data structure element, on a one by one basis, as needed, in the central memory of the computer. Peachtree saves all data to a hard or fixed drive and not central memory. The Office has not shown anything that supports the Peachtree saves anything to central memory. The Office offers subjective speculation with no support or substantiation. If the Office wishes to maintain

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this rejection, Applicant requests that the Office provide some support for this assumption.

Also, the claim limitation with respect to pointers is neither recited in Peachtree in any manner. The claimed pointers, can go through the data structure sequentially starting from the central memory address of the first element of the data structure and move to the central memory address of the next elements until the last element, or, being 'doubly linked', they can go through this data structure sequentially the other way, starting from the central memory address of the last element of the data structure and move to the central memory address of the previous elements until the first element of the data structure. Since new elements can be inserted anywhere in the data structure, no matter what central memory address is available, the process of individual memory allocation space combined with the doubly linked data structure offers great flexibility for organizing and manipulating the accounting data, and fast speed process considering the use of central memory addresses (pointers) providing electronic access to the accounting data.

For at least these reasons, Applicant requests reconsideration of the 102 rejection as the rejection is not proper. Peachtree does not teach each and every element of claims 40, 48 and therefore the rejection is traversed.

Claim Rejections – 35 USC § 103

The Office has quoted the statute from 35 USC 103(a), which is referenced herein. The Office has rejected claim 14 and 18 – 19 as being unpatentable over Peachtree in view of Official Notice and claims 44 – 47 as being unpatentable over Peachtree in view of Sampson (U.S. Pat. No. 5,390,113). Applicant has carefully considered the Office rejections and respectfully submits that the amended claims, as supported by the arguments herein, are distinguishable from the cited reference.

According to the MPEP §2143.01, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where

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there is some teaching, suggestion, or motivation to do so found in either the references themselves or in the knowledge generally available to one of ordinary skill in the art."

A useful presentation for the proper standard for determining obviousness under 35 USC §103(a) can be illustrated as follows:

1. Determining the scope and contents of the prior art;
2. Ascertaining the differences between the prior art and the claims at issue;
3. Resolving the level of ordinary skill in the pertinent art; and
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

The Applicant believes that the claims as amended in the Response Amendment E distinctly define the claimed invention, and are patentably distinct from the references of record. The Applicant respectfully submits that Peachtree does not suggest or render obvious each and every limitation recited in the Applicant's claims. As such, the Applicant respectfully requests the Examiner to withdraw his rejection, and to allow all of pending claims 12-55 as amended herein.

As previously noted, the Office commenced with a faulty premise, namely that the present invention employs a pre-defined Chart of Accounts. As already discussed herein in great detail, the present invention does not use a pre-defined Chart of Accounts and does not use an account sequence. The arguments in the previous response fully support the unique and unobvious aspects of the present invention. Applicant requests that the Office refer to the prior response for the supporting arguments.

For example, the Office alleges that Peachtree provides a direction for the account. Whether it is with a minus sign or with parenthesis - Peachtree simply teaches identifying credit transaction amount and credit account balances with such sign - not if direction is opposite to assigned accounting direction. The Tables on pages 2-18, 8-8, 8-11 and 8-14 clearly show that Peachtree makes a direct correlation between the mathematic sign of the number and the accounting direction of the transaction amount: negative number = credit amount; and positive number = debit amount. Thus, the direction of each transaction is simply indicated by the mathematic sign of the number, and consequently the account

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balance with a minus sign to its right indicates a credit balance.


Furthermore, it has already been described in the prior Office Action (Amendment E) that Sampson does not teaches reducing the number of memory spaces that must be allocated for storing transactions, neither does it teaches optimising allocation of memory spaces for storing transactions included in the accounting data by storing debited account and a corresponding credited account in a single element of the transaction data structure, as claimed by the present invention. Furthermore, the invention claims the usage of "central memory" and not the disc drive or external memory described by Sampson. In addition, claim 46 concerns the theoretical balance being a theoretical account balance. Claim 47 shows the components of the LINK vector and the LINKBANK field.

Applicant respectfully requests that the Office reconsider the arguments and amendments from prior the Office Action Response (Amendment E). Following the telephone interview and demonstration, the Office now comprehends the invention and the reconsideration should result in allowance.

The Applicant believes the above amendments and remarks to be fully responsive, thereby placing this application in condition for allowance. Favorable action is solicited. The Examiner is kindly invited to contact the undersigned attorney by telephone, facsimile, or email for quickest resolution, if there are any remaining issues.

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